

One of the articles of impeachment against Cardinal Woodsey was, that he, as Chancellor, had granted injunctions without any bill being put in. 4 *Inst.* 92. And Lord Bacon, in reply to the king's instructions, pledged himself not to grant injunctions on the mere statement of the bill, but only on matter confessed by the defendant's answer; unless called for by pressing circumstances. *Park His. Co. Cha.* 82. After which, it was declared, by a statute which is in force here, that no subpoena or any other process, except injunctions, to stay waste or proceedings at law, should be granted before a bill was filed. 4 *Ann, ch.* 16, s. 22. But, during the Provincial government, it appears to have been the practice to grant an injunction to stay proceeding at law, before the filing of the bill; upon a petition briefly stating the circumstances; and that too, as it would seem, without any affidavit, or other evidence of the truth of the matters so stated. In which case the petition prayed an injunction until the matter could be heard on a bill to be filed, setting forth the facts more at large; and the bill, afterwards filed, prayed a continuance of the injunction as granted. *Powell v. Speake*, 1760, per SHARP, *Chancellor, Chancery Proceedings, lib. D. D. No. J.*, 83. This course of proceeding was, no doubt, adopted on the ground of analogy to the English mode of granting an injunction in some cases for a similar purpose on an affidavit stating the facts of the case before the filing of the bill. *Eden Inj.* 36, 231. But I have met with no instance of this kind since the establishment of the Republic.

According to the present course of proceeding, in this Court, there is but one mode of obtaining an original injunction; and that is by a bill. To lay a proper foundation for an injunction, the bill should set forth a case of plain right, and a probable
162 danger that the right would be defeated without the interposition of this Court; *Anonymous*, 1 *Vern.* 120; *The State of Georgia v. Brailsford*, 2 *Dall.* 405; or it should appear, that the question was important and doubtful; *Mestaer v. Gillespie*, 11 *Ves.* 636; and the truth of the facts should be verified by an affidavit which is usually made by the plaintiff himself, or by one of the plaintiffs if there be more than one. That, however, is not essential; for, I have granted an injunction when the bill was sworn to by an agent of the plaintiff who was privy to the transaction, the plaintiff being a foreigner and resident abroad. *Dunlop v. Harrison*, 28 *September*, 1826. Indeed, an affidavit of any one does not appear to be indispensably necessary; if documentary, or any other kind of evidence be produced, sufficient to cause belief, and to induce the Court to trust the bill for the truth of its statements. *Schermehorn v. L'Esperasse*, 2 *Dall.* 364.

Having thus far placed confidence in the bill, that confidence will not be withdrawn until the coming in of the answer, in which the defendant is expected to respond clearly and distinctly to all